

1 JEFFREY F. KELLER (CA SBN 148005)  
2 jfkeller@kellergrover.com  
3 DENISE L. DÍAZ (CA SBN 159516)  
ddíaz@kellergrover.com  
4 CAREY G. BEEN (CA SBN 240996)  
cbeen@kellergrover.com  
KELLER GROVER LLP  
5 425 Second Street, Suite 500  
San Francisco, CA 94107  
6 Telephone: 415.543.1305  
Facsimile: 415.543.7861

7 Attorneys for Plaintiff  
8 GEORGE T. BURKE

9 JAMES R. McGUIRE (CA SBN 189275)  
JMcGuire@mofo.com  
10 MORRISON & FOERSTER LLP  
425 Market Street  
11 San Francisco, California 94105-2482  
Telephone: 415.268.7000  
12 Facsimile: 415.268.7522

13 SYLVIA RIVERA (CA SBN 223203)  
SRivera@mofo.com  
14 MORRISON & FOERSTER LLP  
555 West Fifth Street  
15 Los Angeles, CA 90013-1024  
Telephone: 213.892.5200  
16 Facsimile: 213.892.5454

17 Attorneys for Defendants  
18 U.S. BANCORP and U.S. BANK NATIONAL ASSOCIATION

19  
20 UNITED STATES DISTRICT COURT  
21  
NORTHERN DISTRICT OF CALIFORNIA

22 GEORGE T. BURKE, on behalf of himself and all  
23 others similarly situated,

24 Plaintiff,

25 v.

26 U.S. BANCORP, U.S. BANK N.A., and DOES 1-  
10, inclusive,

27 Defendants.

28 Case No. 09-CV-1579 JSW

CLASS ACTION

**STIPULATION AND [PROPOSED]  
ORDER FOR EXTENSION OF TIME  
TO RESPOND TO FIRST AMENDED  
COMPLAINT AND CONTINUE  
INITIAL CASE MANAGEMENT  
CONFERENCE AND RELATED  
DEADLINES**

Pursuant to Local Rule 6-1(a) and Federal Rule of Civil Procedure 12(a), Plaintiff George T. Burke (“Plaintiff”) and Defendants U.S. Bancorp and U.S. Bank National Association (“Defendants”), by and through their respective attorneys, hereby stipulate and agree as follows:

WHEREAS, on April 10, 2009, Defendants removed this case from California State Superior Court;

WHEREAS, the parties have since engaged in mutual discussion and an informal exchange of information regarding the conduct at issue in this litigation;

WHEREAS, as a result of such discussions Plaintiff and Defendants agreed that Plaintiff’s First Amended Complaint may not accurately allege certain facts and U.S. Bank’s policies and procedures;

WHEREAS, as a further result of such discussions the parties agreed to an extension of Defendants’ time to file a responsive pleading, until June 17, 2009, while the parties determined how best to proceed;

WHEREAS, Plaintiff decided that under the circumstances, amendment of the First Amended Complaint would be appropriate;

WHEREAS, late in the process of preparing a second amended complaint, Plaintiff discovered that another putative class action, commenced after this action, existed in the Central District of California regarding substantially the same subject matter as the instant litigation, specifically the case of *Lowe v. U.S. Bank, N.A.*, case no. SACV 09-0456 AG;

WHEREAS, at the time of discovery of the *Lowe* case, counsel for Defendants were in the process of preparing notices of related cases;

WHEREAS, counsel for Plaintiff and counsel for *Lowe* have agreed to prepare a consolidated amended complaint before this Court, the court before which the first-filed action is pending, in an effort to avoid duplicative litigation and conserve judicial resources;

1           WHEREAS, as a result of the anticipated consolidated amended complaint,  
 2 it will be necessary for Plaintiff to make additional and previously unanticipated  
 3 amendments to Plaintiff's First Amended Complaint;

4           WHEREAS, Plaintiff and Defendants are hopeful that a stipulation can be  
 5 reached regarding the filing of a Second Amended Complaint. The parties  
 6 acknowledge that Defendants will require time to review the proposed Second  
 7 Amended Complaint when it is available in advance of any stipulation;

8           WHEREAS, in light of the foregoing, Plaintiff has requested an additional  
 9 two week extension to allow Plaintiff's counsel and counsel in *Lowe* adequate time  
 10 to coordinate the two cases and hopefully reach a stipulation with Defendants  
 11 regarding filing a Second Amended Complaint;

12          WHEREAS, the Initial Case Management Conference in this matter is  
 13 currently scheduled for Friday, July 31, 2009 at 1:30 p.m.;

14          WHEREAS, the Parties' Rule 26(f) Report and Joint Case Management  
 15 Statement are currently due July 24, 2009, 7 days prior to the Initial Case  
 16 Management Conference;

17          WHEREAS, the Parties are currently required to file ADR Certifications and  
 18 a Stipulation to ADR Process or Notice of Need for ADR Phone Conference by  
 19 July 10, 2009, 21 days prior to the Initial Case Management Conference;

20          IT IS HEREBY STIPULATED AND AGREED pursuant to Local Rule 6-  
 21 1(a), and Federal Rule of Civil Procedure 12(a), by and between Plaintiff George  
 22 Burke and Defendants U.S. Bancorp and U.S. Bank National Association, through  
 23 their respective attorneys, that the time by which defendants may plead or  
 24 otherwise respond to the First Amended Complaint shall be extended to and  
 25 include **Wednesday, July 1, 2009.**

26          IT IS FURTHER STIPULATED AND AGREED pursuant to Northern  
 27 District Local Rules 6-2(a), 7-12, and 16-2(e), that the Initial Case Management  
 28 Conference currently scheduled for **Friday, July 31, 2009**, shall be continued to

**Friday, September 4, 2009** or any date thereafter at the Court's convenience. Additionally, in accordance with FRCP 26(f) and Local Rule 16-9(a), the Parties Rule 26(f) Report and Joint Case Management Conference Statement will be due seven (7) days prior to the rescheduled Initial Case Management Conference. The ADR Certifications and a Stipulation to ADR Process or Notice of Need for ADR Phone Conference will be due twenty-one (21) days prior to the rescheduled Initial Case Management Conference.

Dated: June 15, 2009

**JEFFREY F. KELLER  
CAREY G. BEEN  
KELLER GROVER LLP**

By: /s/ Carey G. Been  
Carey G. Been

Attorneys for Plaintiff  
**GEORGE T. BURKE**

Dated: June 15, 2009

JAMES R. MCGUIRE  
SYLVIA RIVERA  
**MORRISON & FOERSTER LLP**

By: /s/ Sylvia Rivera  
Sylvia Rivera

Attorneys for Defendants  
U.S. BANCORP and U.S. BANK  
NATIONAL ASSOCIATION

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: June 18, 2009

By: Judge Jeffrey S. White  
Judge Jeffrey S. White  
United States District Court Judge